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Progress Report



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Florida Engineers Management Corporation Performs Well, But Department of Business and Professional Regulation Has Not Implemented Privatization Recommendations

at a glance

The Florida Engineers Management Corporation (FEMC) continues to perform well in complaint processing, and its regulatory costs have stabilized since the significant increase during the corporation's first full year of operation. The Department of Business and Professional Regulation (DBPR) has not privatized other regulatory boards, although authorized by the Legislature to do so. The department also has not implemented our recommendations to conduct cost-benefit analyses of privatization proposals and to determine whether increased specialization of staff could improve services.

Purpose

In accordance with state law, this report describes action by the Legislature and the Department of Business and Professional

Regulation in response to a March 2000 OPPAGA review.¹

Background

The Florida Engineers Management Corporation was established to increase operational and economic efficiency

To protect public health and safety, the Legislature enacted Ch. 471, *Florida Statutes*, the Engineering Registration Law. Under this law, the Florida Board of Professional Engineers regulates the engineering profession in the state, including reviewing applications, administering examinations, and licensing qualified applicants. Before Fiscal Year 1997-98, the Department of Business and Professional Regulation administered the board.

¹ *Performance Review: Privatizing Regulation of Professional Engineers Has Improved Services, But Increased Costs*, [Report No. 99-42](#), March 2000.

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In 1997, the Legislature enacted s. 471.038, *Florida Statutes*, which established the Florida Engineers Management Corporation as a private not-for-profit corporation to provide administrative, investigative, and prosecutorial services to the Florida Board of Professional Engineers.² These functions were transferred from the Department of Business and Professional Regulation with the expectation of greater operational and economic efficiency. The department contracts with the corporation for regulatory services and employs a full-time contract manager to provide active supervision of the corporation and to determine compliance with contract requirements. In addition, the department retains the responsibility for issuing emergency orders and for prosecuting unlicensed activity cases.

In Fiscal Year 2001-02, the corporation served 20,814 actively licensed engineers with 13 full-time staff. During the same period, the Legislature appropriated the corporation \$2.17 million from the Professional Regulation Trust Fund.³

Prior Findings _____

Our 1999 review found that although performance had improved under the corporation, regulatory costs had increased. We also identified several issues that should be considered if additional professional boards are privatized. Specifically, privatizing individual boards may increase costs for the department's remaining boards, creating separate licensee data systems for each privatized entity is costly and may diminish data reliability, and the

² Section 471.038, *Florida Statutes*, was scheduled to repeal automatically unless re-enacted by October 1, 2000. The 2000 Legislature amended the law to prevent the scheduled repeal.

³ The Professional Regulation Trust Fund is funded through fees paid by the various professions regulated by the department, which includes fees paid by professional engineers.

department needed to consider specializing its board staff, as this action had increased the corporation's performance.

Privatization resulted in improved performance

An important responsibility of the corporation is to investigate complaints against licensed professional engineers in a timely manner. Our prior review found that in 1998-99, the corporation's first full year of operation, it processed more complaints in a timelier manner than did the department.

Another important responsibility of regulatory entities is to have a system to ensure compliance with disciplinary requirements that are placed upon persons who violate professional standards. Our prior review found that the corporation appeared to have a reasonable compliance monitoring system, which represented a performance improvement as no compliance monitoring system had been in place during the department's administration of the board.

Critical stakeholders also appeared to be satisfied with the corporation's performance and the results of the privatization effort. Members of the Board of Professional Engineers and the Board of the Florida Engineers Management Corporation expressed satisfaction with corporation performance. In addition, the corporation contracted for a customer satisfaction survey to evaluate its first year of operation, wherein engineers who responded reported satisfactory experience.

Costs increased under privatization

Regulatory costs increased under the corporation. These costs were compared over a multi-year period, because operating costs vary

depending on whether license renewals occur during the year. Professional engineers are licensed for a two-year period, with all licenses renewed every other year. Renewal years thus generate higher expenditures than non-renewal years due to the need to handle over 20,000 renewal applications.

Fiscal Year 1998-99, the first full year of the corporation's operation, was a renewal year. We found that the corporation's expenditures during this period were significantly higher than in Fiscal Year 1996-97, the prior renewal year administered by the department. Moreover, the department spent additional funds to administer its contract with the corporation, which increased costs further.

Privatizing individual boards may increase the fixed costs shared by remaining boards

The purpose of combining the regulation of several professions under one agency is to permit the economies of scale available when fixed costs are distributed over a larger number of boards. The department provides centralized licensing, testing, investigations, and legal services to 19 regulating entities. As boards are privatized, fewer boards will remain to absorb these costs. Thus, the cumulative impact of the privatization of additional boards may be an increase in the costs allocated to each profession that remains under the department.⁴

To determine whether further privatization of professional boards would result in improved performance and cost savings, and to assess the cumulative impact of privatizing additional

⁴ Because the department's fixed costs (such as building rent, utilities, and administrative support) were distributed over more than 19 regulating entities, the impact of creating the Florida Engineers Management Corporation did not materially affect the remaining boards.

boards, we recommended that the Legislature require any future privatization proposals to include an analysis that

- provides baseline data, to include the costs and performance of the function under the state entity;
- identifies expected cost savings and service improvements anticipated to result through the privatization effort;
- quantifies the expected cost impact on professions remaining with the department; and
- identifies any reduction in the department's fixed costs that can be made to offset the increased allocations to individual boards.

We also recommended that the department use expectations identified in these analyses to establish performance-based contracts with privatized entities and to conduct subsequent evaluations and comparisons of the cost and performance of each entity before and after privatization.

Separate licensee data systems are costly and diminish the integrity of performance information

Due to department concerns regarding data security, the Florida Engineers Management Corporation was required to establish a licensee data system separate from the department's centralized licensee database. The corporation incurred costs in excess of \$100,000 to develop this system.

Data included in the information system is provided to the department for inclusion in performance-based program budgeting (PB²) measures. The usefulness of PB² data depends on the reliability of the underlying data. The need to compile this data from multiple

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information systems increases both the risk of error and the necessary extensiveness of data testing.

If additional boards are privatized and required to develop stand-alone information systems, regulatory costs likely will increase due to the need to create duplicate licensee data systems, and data accuracy could be compromised. Thus, we recommended that before additional privatization, the department identify the actions that would be required and the costs that would be incurred to allow the privatized entities to interact with the department's centralized licensee data system.

Increased performance may have been attributed to specialization of board staff

The Florida Engineers Management Corporation provides services to engineering licensees under a different organizational model than the Department of Business and Professional Regulation. Under the department,

- the Board of Professional Engineers shared administrative services and staff with several other boards;
- a unit that served all the entities under the department's jurisdiction provided investigative services, and investigators did not specialize in a specific licensing area; and
- the department's central legal office provided legal services, with some specialization in specific licensing areas.

In contrast, under the corporation, administrative, investigative, and prosecutorial staff provides services only to the engineering profession.

Critical stakeholders asserted that staff specialization provided greater responsiveness. In addition to providing the expertise needed to process complex engineering complaints, it appeared that the stand-alone model allowed more effective communication between corporation staff and improved responsiveness to engineers and the public.

Because the increased performance of the corporation may have been related to the specialization of board staff, we recommended that the department determine whether increased specialization of administrative, investigative, and prosecutorial staff could improve services to other professions under its control.

Current Status _____

The Florida Engineers Management Corporation continues to perform well in the area of complaint processing, and regulatory costs have stabilized since the significant increase during the corporation's first full year of operation. However, although the Legislature authorized further privatization, the Department of Business and Professional Regulation has not successfully privatized other regulatory boards. Moreover, there was no occasion for the department to implement our recommendations to conduct cost-benefit analyses of privatization proposals before implementation and to determine whether increased specialization of staff could improve services. No boards requested the outsourcing of their support services.

Performance continues to improve under corporation

The corporation continues to perform well in the key area of complaint processing.

Although the number of complaints received has increased significantly since the corporation's first full year of operation in 1998-99, the corporation has improved the timeliness of processing complaints during this period (see Exhibit 1). Specifically, in Fiscal Year 2000-01 the corporation referred 97% of cases to the probable cause panel within nine months, compared to 57% of the cases referred by the department in Fiscal Year 1998-99.⁵

Regulatory costs have stabilized

While regulatory costs increased significantly during the corporation's first full year of operation, expenditures leveled off in subsequent years. As shown in Exhibit 2, the corporation's contract amount and the department's contract management costs have actually decreased since Fiscal Year 1998-99.

⁵ In Fiscal Year 2000-01, 56% of the cases were referred within six months and 41% were referred within nine months, for a total of 97%. In Fiscal Year 1998-99, 30% of the cases were referred

within six months and 27% were referred within nine months, for a total of 57%.

Exhibit 1

The Corporation Refers Most Complaints to the Probable Cause Panel Within Nine Months

	Percentage and Number of Legally Sufficient Complaints Processed							
	Department FY 1996-97		Corporation FY 1998-99		Corporation FY1999-00		Corporation FY 2000-01	
6 months	30%	10	40%	26	69%	76	56%	38
9 months	27%	9	32%	21	21%	24	41%	28
12 months	24%	8	15%	10	10%	11	3%	2
Over 12 months	18%	6	3%	2	0%	0	0%	0
Open cases, not determined			9%	6				
Total Number of Complaints Referred	33		65		111		68	
Total Number of Complaints Received	78		100		180		165	

Source: Department of Business and Professional Regulation and the Florida Engineers Management Corporation.

Exhibit 2

Expenditures Decreased in Fiscal Year 2000-01

	Department 1996-97	Corporation 1998-99 ¹	Corporation 1999-00	Corporation 2000-01 ¹
FEMC Contract Amount		\$2,170,000	\$2,170,000	\$1,670,000
DBPR Operating Expenditures ²	\$1,579,025	179,821	120,761	187,025
Contract Management		84,104	79,863	71,319
Total	\$1,579,025	\$2,433,925	\$2,370,624	\$1,928,344

¹ License renewal year.

² We did not include in our assessment the department's non-operating expenditures, such as service charges to general revenue and refunds.

Source: Department of Business and Professional Regulation's *Professional Regulation Trust Fund Annual Financial Report*.

Although authorized by the Legislature, no further privatization has occurred

Recognizing the potential benefits of privatizing professional regulatory boards, the 2000 Legislature passed the Management Privatization Act, authorizing the Department of Business and Professional Regulation to contract for support services upon the request of any board, commission, or council.⁶ Services that may be provided by private entities include administrative, investigative, examination, licensing, and prosecutorial support services. The act also directed the department to contract with a corporation for the provision of support services to the Board of Architecture and Interior Design by October 1, 2000. However, the act did not direct the department to conduct cost-benefit analyses of privatization proposals before implementation.

Despite the passage of the Management Privatization Act, no additional boards have been privatized. Department officials said that further privatization has not occurred because no boards have requested the outsourcing of their support services. Furthermore, although the department negotiated a contract for the privatization of the Board of Architecture and Interior Design, the department and board could not agree on contract terms, so the board continues to receive support services from the department rather than from a private entity.⁷ According to department officials, contract negotiations stalled because the board sought full budget control over the private vendor,

while the department wanted to maintain oversight of the vendor's budget.

Recommendations to assess privatization proposals not implemented

According to department officials, no board other than the Board of Architecture and Interior Design has been considered for privatization. Accordingly, the department has had no occasion to implement our recommendations related to conducting privatization analyses and establishing performance-based contracts with privatized entities. In addition, the department has not analyzed the required actions or costs of privatized entities interacting with the department's data system. However, the department has required the Engineers Management Corporation to be fully integrated within the department's re-engineered licensing system by 2003.⁸

To help ensure that further privatization of professional boards result in improved performance and cost savings, and to assess the cumulative impact of privatizing additional boards, we continue to recommend privatization analysis be performed on any future privatization proposals and that the expectations identified in these analyses be used to establish performance-based contracts.

Impact of staff specialization not evaluated

Further, the department has not increased the specialization of staff serving professional boards. Although our prior review found that the specialization of personnel serving the Board of Professional Engineers might have

⁶ Section 455.32, *Florida Statutes*.

⁷ The 2001 General Appropriations Act included proviso language dictating a reduction in resources pursuant to the outsourcing of support functions for the board, but gave the Executive Office of the Governor the ability to restore the resources to the department if a contract failed to be implemented.

⁸ The department is in the process of reengineering its permitting and licensing data system to facilitate online licensure application and renewal. As of February 2002, over 350,000 licensees were online, including real estate professionals, certified public accountants, and electrical contractors.

contributed to the corporation's improved performance, the Department of Business and Professional Regulation has not adopted our recommendation to determine whether increased specialization of administrative, investigative, and prosecutorial staff could improve services to other professions under its control. According to department officials, no attempt has been made to increase specialization because the department has not pursued the privatization of other professional boards.

We continue to recommend that the department determine whether increased specialization of administrative, investigative, and prosecutorial staff could improve services to other professions under its control.

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